ANNUAL REPORT

for the period
April 1, 1997 to March 31, 1998

Public Prosecution Service

100-04535/

The Honourable Ron Russell
Speaker of the Nova Scotia House of Assembly
Office of the Speaker
Province House
Halifax, Nova Scotia
B3J 2Y3

Dear Mr. Speaker:

I have the honour of presenting to you and through you to the Members of the Legislative Assembly, the Annual Report of the Public Prosecution Service of Nova Scotia, as required by Section 13 of the *Public Prosecutions Act.*

This report covers the period of April 1, 1997 to March 31, 1998. During the period of this report the Director of Public Prosecutions was Mr. Jerry S. T. Pitzul. Mr. Pitzul resigned from the position of Director of Public Prosecutions, effective April 14, 1998, to assume the position of Judge Advocate General of the Canadian Armed Forces.

Respectfully submitted,

Martin E. Herschorn, Q.C.
Deputy Director of Public Prosecutions

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THE MANDATE OF THE PUBLIC PROSECUTION SERVICE

In Nova Scotia all prosecutions for criminal and provincial offences are brought in the name of the Crown because the Crown is responsible for bringing before the courts those accused of prohibited conduct which adversely affects the safety and well-being of the community.

On September 1, 1990, the Province of Nova Scotia became the first jurisdiction in Canada to create a statutorily based independent prosecution service. The mandate of this prosecution service, as expressed in the legislation creating it, is to ensure fair and equal treatment in the prosecution of offences.[1] The means chosen to achieve this goal is a system of prosecutorial arrangements first implemented in Australia, subsequently embraced by a number of other Commonwealth jurisdictions, and specifically recommended for Nova Scotia by the Royal Commission that inquired into the prosecution of Donald Marshall, Jr. [2]

These new prosecutorial arrangements make all prosecutions within the jurisdiction of the Attorney General of Nova Scotia the responsibility of his or her agent, the Director of Public Prosecutions. The Director of Public Prosecutions conducts prosecutions, either personally or through the Crown Attorneys of the Public Prosecution Service, independently of the Attorney General. The only limitation on the operational independence of the Director of Public Prosecutions permitted by the *Public Prosecutions Act* arises when the Attorney General issues written instructions to the Director of Public Prosecutions. These instructions are binding and must be made public. This procedure preserves the ultimate prosecutorial authority of the Attorney General. It is a means of ensuring accountability to the electorate for the manner in which public prosecutions are conducted.

In support of its statutory mandate, the Public Prosecution Service has adopted the following mission and goals.

[1] *An Act to Provide for an Independent Director of Public Prosecutions* (hereinafter referred to as the *Public Prosecutions Act*). S.N.S. 1990 c. 21, s.2.

[2] Recommendation 35, *Royal Commission on the Donald Marshall, Jr. Prosecution*, [Report] 7 Vols., (Halifax: The Royal Commission, 1989).

MISSION

The mission of the Public Prosecution Service is to seek justice by prosecuting offences competently, with fairness and equal treatment for all persons.

Goals

a. providing a Public Prosecution Service that reflects professional competency, dedication to public service, and high ethical standards

b. providing a Public Prosecution Service that identifies and allocates the resources required to carry out its mission

c. providing a Public Prosecution Service that reflects the application of best business practices consistent with providing high-quality service

d. providing, within the Public Prosecution Service an environment that allows for the independent exercise of prosecutorial discretion

e. providing a Public Prosecution Service that is reflective of the community it serves

PERFORMANCE 1997–98

In attaining the goals of the Public Prosecution Service, the following performance measurements were recorded in 1997–98.

a. Providing a Public Prosecution Service that reflects professional competency, dedication to public service, and high ethical standards:

- prosecuted 38,414 *Criminal Code* cases from April 1, 1997, to March 31, 1998
- prosecuted 11,061 provincial statute cases from April 1, 1997 to March 31, 1998
- prosecuted 87 appeals before the Nova Scotia Court of Appeal and the Supreme Court of Canada between April 1, 1997 and March 31, 1998
- developed a draft training profile for each occupational level of Crown Attorney and support staff
- funded 28 Crown Attorneys to attend the Federation of Law Societies Program on Criminal Law held in Halifax, Nova Scotia, in July, 1997
- funded a three-day annual conference for Crown Attorneys and a one-day conference for support staff of the Public Prosecution Service, both in September 1997
- participated in the following operational or policy initiatives

  1) the Director of Public Prosecutions' initiative on disclosure

  2) the Department of Justice Access to Justice Initiative

  3) the implementation of adult diversion province wide

  4) the contracting of prosecution services to municipalities

  5) STAR/STOR records management system

  6) forms committee

- continued participation at meetings of Federal/Provincial/ Territorial Ministers and Deputy Ministers, meetings of the Coordinating Committee of Senior Officials and Heads of Prosecution, Provincial Deputy Ministers meetings, and meetings of the Justice Coordinating Committee

- continued to fund the defence of Crown Attorneys sued for malicious prosecution, and participated in national initiatives aimed at establishing guidelines for public policy on this issue

- continued funding the Public Prosecution Service Management Committee Newsletter and Professional Development Newsletter;

- issued a call for proposals for a study on the feasibility of establishing a Public Prosecution Service/Dalhousie Law School Public Prosecutions Institute

- continued annual performance appraisals for Crown Attorneys

- published the Crown Attorney's Manual as recommended in the 1994 Ghiz-Archibald Review of the Public Prosecution Service

b. Providing a Public Prosecution Service that identifies and allocates the resources required to carry out its mission:

- as part of the Access to Justice Initiative, began the establishment of a Management Information System for the Public Prosecution Service by assigning a Crown Attorney to this project

- moved the Head Office of the Public Prosecution Service as well as the Joseph Howe and Spring Garden Road offices to a new location in Maritime Centre

- received Department of Transportation and Public Works approval for new offices in Bridgewater, Shelburne, and Antigonish

- analysed the workflow in the Kentville office and concluded that an additional Crown Attorney is required to support the case load

- analysed the support staff requirements in the Amherst office and concluded that an additional support staff is required

- analysed the workflow in the Port Hawkesbury office and concluded that an additional Crown Attorney is required to support the case load

- prepared and submitted to the Department of Human Resources an extensive and comprehensive application for reclassification of compensation levels for Crown Attorneys

- developed a new policy regarding the use of per diem Crown Attorneys, to be implemented upon budgetary approval

- continued the process of phasing in the redistribution of per diem Crown Attorney funding into permanent Crown Attorney positions where possible and feasible

- initiated a project to analyse support staff needs (including the use of paralegals) and to provide a budget strategy to meet these needs

- continued the monthly reviews of the budget forecasting process

- held quarterly reviews of the Public Prosecution Service's detailed business plan

c. Providing a Public Prosecution Service that reflects the application of best business practices consistent with providing a high-quality service:

- continued the process of creating an annual business plan and initiated the development of a five-year strategic plan

- reported on a semi-annual basis a breakdown of outcome measures by region

- provided for executive training for three members of the Management Committee of the Public Prosecution Service

- participated in the Working Committee of the Canadian Centre for Justice Statistics, whose purpose is to establish a meaningful information gathering and reporting process regarding criminal prosecutions in Canada

d. Providing, within the Public Prosecution Service, an environment that allows for the independent exercise of prosecutorial discretion:

- provided information to the public and other stakeholders on the role of the Public Prosecution Service and, in particular, the role of the Crown Attorney in the administration of justice

- continued to educate the members of the Public Prosecution Service regarding the independence of the Service and its relationship with the Department of Justice

- utilized a communications officer not associated with the Department of Justice

e. Providing a Public Prosecution Service that is reflective of the community it serves:

- continued support for the Indigenous Black and Mi'kmaq Program at Dalhousie Law School through the funding of an articled clerk position in conjunction with the Department of Justice

- through the Service's Equality and Diversity Sub-Committee, continued the development of a policy on Employment Equity and Diversity

THE ROLE OF THE ATTORNEY GENERAL

In Nova Scotia, the Minister of Justice is also the Attorney General and has the superintendence of all matters connected with the administration of justice in the province not within the jurisdiction of the federal government of Canada. The Attorney General's functions and powers include legislative responsibility for affairs and matters relating to courts and prosecutions. He or she is the Law Officer of the Crown and the Chief Public Prosecutor.

By virtue of this role, the Attorney General has the right to be informed about the conduct of police activities and individual criminal prosecutions. This right is normally only exercised in exceptional cases. No such right exists for any other member of the executive council or of government. This not only protects the integrity of the criminal justice system, but serves to shield government members and their staff from the accusation of attempting to interfere in the administration of justice.

The *Public Prosecutions Act* ensures the accountability to the Legislative Assembly of the Attorney General in his or her capacity as Chief Public Prosecutor. Section 6 of the *Act* provides that the Attorney General is responsible for the Public Prosecution Service and is accountable to the Assembly for all prosecutions. This ensures that ultimate control over prosecutions remains in the hands of an elected official.

By virtue of subsection 6 (a) of the *Public Prosecutions Act*, the Attorney General is entitled to issue general instructions or guidelines in respect of all prosecutions, or a class of prosecutions, to the Public Prosecution Service after consultations with the Director of Public Prosecutions. During the period April 1, 1997, to March 31, 1998, the Attorney General of the day has not had occasion to exercise his authority under this provision.

By virtue of subsection 6 (b) of the *Public Prosecutions Act*, the Attorney General is entitled to issue instructions or guidelines in a particular prosecution after consultation with the Director of Public Prosecutions. During the period April 1, 1997, to March 31, 1998, the Attorney General has not had occasion to exercise his authority under this provision.

By virtue of subsection 6 (e) of the *Public Prosecutions Act*, the Attorney General is entitled to exercise all statutory functions with respect to prosecutions after consultation with the Director of Public Prosecutions. During the period April 1, 1997, to March 31, 1998, the Attorney General has not had occasion to exercise his authority under this provision.

THE ROLE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

Pursuant to the *Public Prosecutions Act*, the Director of Public Prosecutions is the head of the Public Prosecution Service, which conducts all prosecutions independently of the Attorney General on behalf of the Crown in right of Nova Scotia. This includes the prosecution of offences under the *Criminal Code*, certain other federal statutes (e.g., *Migratory Birds Convention Act, Canada Shipping Act*, *Small Vessel Regulations*, and *Explosives Act*), and most offences under provincial statutes. Prosecutions for violations of other federal statutes are conducted by agents of the Attorney General of Canada.

The Director of Public Prosecutions, as the lawful Deputy of the Attorney General with respect to prosecutions under the *Criminal Code* and under the *Summary Proceedings Act*, can exercise any of the powers conferred upon the Attorney General. These include the preferring of direct indictments or consenting to the laying of a new information following a discharge of an accused at a preliminary inquiry. When these powers are exercised in indictable matters, a report can be provided to the Attorney General at his or her request or upon the initiative of the Director of Public Prosecutions. This would allow the Attorney General to be knowledgeable should any of these decisions be questioned in the House of Assembly or should the Attorney General wish to exercise any of the powers conferred by Section 6 of the *Public Prosecutions Act*.

The Director of Public Prosecutions also has the status of deputy head and the provisions of the *Civil Service Act* and regulations relating to a deputy or a deputy head apply to the Director of Public Prosecutions.

The Director of Public Prosecutions must be a barrister of at least 10 years' standing. If from another province, he or she must become a practising member of the Nova Scotia Barristers' Society within one year of appointment. The Director of Public Prosecutions holds office during good behaviour and may be removed from office for cause by a resolution of the Assembly.

THE ROLE OF THE CROWN ATTORNEY

Crown Attorneys in Nova Scotia are responsible to the Director of Public Prosecutions through a Chief or Regional Crown Attorney for the conduct of prosecutions. The conduct of a prosecution involves not only the conduct of the trial itself but a myriad of other activities essential to a fair prosecution. Crown Attorneys therefore conduct arraignments, show cause (bail) hearings, preliminary inquiries, sentencings, appeals to the Supreme Court of Nova Scotia, appeals to the Court of Appeal, appeals to the Supreme Court of Canada, disposition and review hearings before the Criminal Code Review Board, and fatality inquiries. In addition, they provide pre-charge advice to the police and provincial government enforcement officials, participate in the formulation of policy advice on the criminal law, participate in management activities aimed at improving the delivery of prosecutorial services to the community, prepare professional papers, and conduct and participate in public speaking engagements. In short, they discharge a number of responsibilities of fundamental importance to the community.

In discharging these responsibilities, a Crown Attorney must be guided by the law, codes of professional ethics, and the public interest. The public interest involves many considerations. It encompasses the need to protect the overwhelming percentage of law-abiding citizens through the conviction of criminals and the deterrence of crime. The community is entitled to have those charged with offences prosecuted both firmly and efficiently, but it also expects them to be prosecuted fairly. Properly balanced, the public interest in the conviction of the guilty does not conflict with the principles of fundamental justice.

The notion that all accused should receive fair and equal prosecutorial treatment by the Crown is an aspect of the rule of law. Canada's judicial system operates on an adversarial trial model. It is left up to the parties to frame the issues before the court and lead the evidence relied on in support of their case. The role of defence counsel in this model is to do everything that can be ethically done to secure an acquittal for an accused who has chosen to plead not guilty. The role of Crown Attorney, on the other hand, excludes any notion of winning or losing. The Supreme Court of Canada has expressed the proper frame of mind of those who represent the Crown in the following words:

> "... the situation which the Crown occupies is not that of an advocate in a civil case. His functions are quasi-judicial. He should not seek so much to obtain a verdict of guilty as assist the judge and jury to render the most complete justice. Moderation and impartiality should always characterize his conduct before the court. He will in fact have honestly fulfilled his duty and will be beyond reproach, if, putting aside any appeal to emotions, in a dignified manner consistent with his role, he exposes the evidence to the jury without going beyond what it actually reveals..."[3]

On March 31, 1998, there were 75 Crown attorneys employed by the Public Prosecution Service. They were assisted in their duties by 44 support staff.

[3] *Boucher* v. *Her Majesty the Queen* [1955] S.C.R. 16.

ORGANIZATION DESCRIPTION

The head office of the Service, located at 1505 Barrington Street, Halifax, comprises the senior management of the Service. Senior management consists of the Director of Public Prosecutions, the Chief Crown Attorney (Appeals) and the Chief Crown Attorney (Trials), the Manager of Administrative Services, and their support staff.

Four Regional Crown Attorneys report through the Chief Crown Attorney (Trials) to the Director and are resident in the Western, Cape Breton, Halifax, and Central regions. Also reporting to the Chief Crown Attorney (Trials) is the Special Prosecutions Unit. Special Prosecutions primarily focuses on commercial crime, fraud, sexual assaults, and charges under the province's *Revenue Act*. Members of this unit also prosecute cases that present conflicts for regional offices, or where a law enforcement officer is the subject of a police investigation or a prosecution.

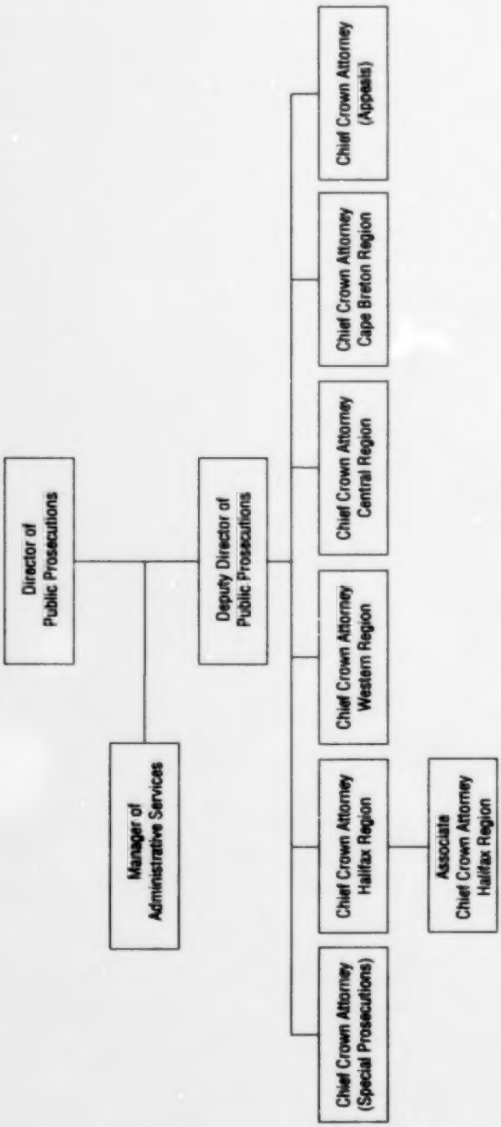
The Service's coordinator for the *Freedom of Information and Protection of Privacy Act* is also located in the head office. In the period covered by this report, the Service received 18 applications for records under this Act.

The Appeals Branch is responsible for conducting all criminal and quasi-criminal appeals to which the Attorney General is a party in the Nova Scotia Court of Appeal and the Supreme Court of Canada. The Appeals Branch also conducts all proceedings required before an appeal is heard by the court. These proceedings include Chambers motions in the Court of Appeal and applications for leave to appeal in the Supreme Court of Canada.

In 1998–99, the Service will implement a more streamlined organization structure. This structure is illustrated on page 19.

ORGANIZATION STRUCTURE 1997–98

The Public Prosecution Service will implement the following organization chart in 1998–99.


Director of Public Prosecutions
Manager of Administrative Services
Deputy Director of Public Prosecutions
Chief Crown Attorney (Special Prosecutions)
Chief Crown Attorney Halifax Region
Associate Chief Crown Attorney Halifax Region
Chief Crown Attorney Western Region
Chief Crown Attorney Central Region
Chief Crown Attorney Cape Breton Region
Chief Crown Attorney (Appeals)

APPENDIXES

APPENDIX A: CRIMINAL CODE CASES PROSECUTED BY OFFICE BY CATEGORY OF OFFENCE APRIL 1, 1997 TO MARCH 31, 1998 [1]

	Bedford	Halifax	Dartmouth	**Halifax Region**	Amherst	New Glasgow	Truro	Antigonish	**Central Region**
Homicide[2]	4	11	15	**30**	2	6	8	0	**16**
Attempted Murder	1	2	1	**4**	1	0	2	0	**3**
Robbery	23	124	103	**250**	6	4	16	0	**26**
Sexual Assault	16	66	43	**125**	32	43	60	9	**144**
Sexual Abuse	7	40	32	**79**	18	12	31	9	**70**
Kidnapping	6	29	8	**43**	1	1	5	0	**7**
Abduction	1	0	2	**3**	1	0	2	1	**4**
Break & Enter	248	361	284	**893**	200	101	194	35	**530**
Weapons	81	148	95	**324**	56	41	67	12	**176**
Fraud	320	466	428	**1214**	195	132	241	60	**628**
Major Assault	87	398	257	**742**	99	69	158	21	**347**
Simple Assault	235	644	558	**1437**	199	212	324	93	**828**
Theft	415	1109	765	**2289**	230	225	445	47	**947**
Stolen Property	271	325	615	**1211**	88	44	214	18	**364**
Arson	6	1	2	**9**	4	3	10	3	**20**
Property Damage	120	366	136	**622**	112	109	192	32	**445**
Morality Sexual	6	155	90	**251**	6	8	59	3	**76**
Morality Gaming	2	0	0	**2**	9	0	0	0	**9**
Public Order	21	23	36	**80**	44	66	41	8	**159**
CC Traffic	79	78	94	**251**	36	44	86	20	**186**
Administration of Justice	494	993	1098	**2585**	297	432	761	172	**1662**
Impaired Driving	462	734	600	**1796**	282	423	471	185	**1361**
Other CC	24	29	24	**77**	39	13	15	4	**71**
Criminal Harassment	15	38	6	**59**	2	9	2	7	**20**
Threats	101	437	222	**760**	76	109	123	28	**336**
Total	**3045**	**6577**	**5514**	**15,136**	**2035**	**2106**	**3527**	**767**	**8435**

[1] The cases prosecuted by the Special Prosecutions Unit of the PPS are included in the region from which they originate.

[2] Homicides include all cases involving culpable death eg. murder, manslaughter, criminal negligence causing death and dangerous driving causing death, etc.

APPENDIX A: CRIMINAL CODE CASES PROSECUTED BY OFFICE BY CATEGORY OF OFFENCE APRIL 1, 1997 TO MARCH 31, 1998 [1]

	Kentville	Bridgewater	Yarmouth	Digby	Western Region	Sydney	Port Hawkesbury	Cape Breton Region	Total
Homicide[2]	2	1	0	0	**3**	7	0	**7**	**56**
Attempted Murder	2	0	1	0	**3**	1	3	**4**	**14**
Robbery	8	2	3	4	**17**	20	0	**20**	**313**
Sexual Assault	71	22	21	25	**139**	47	10	**57**	**465**
Sexual Abuse	19	15	8	9	**51**	19	7	**26**	**226**
Kidnapping	0	2	1	4	**7**	8	4	**12**	**69**
Abduction	1	1	0	0	**2**	2	0	**2**	**11**
Break & Enter	191	114	108	63	**476**	231	53	**284**	**2183**
Weapons	89	69	41	27	**226**	102	21	**123**	**849**
Fraud	431	170	78	61	**740**	210	45	**255**	**2837**
Major Asault	89	45	44	44	**222**	181	21	**202**	**1513**
Simple Assault	400	204	174	152	**930**	552	118	**670**	**3865**
Theft	441	209	140	109	**899**	522	38	**560**	**4695**
Stolen Property	173	68	55	37	**333**	144	19	**163**	**2071**
Arson	2	5	0	2	**9**	20	1	**21**	**59**
Property Damage	198	85	79	72	**434**	274	55	**329**	**1830**
Morality Sexual	21	13	4	19	**57**	20	0	**20**	**404**
Morality Gaming	4	0	0	0	**4**	1	0	**1**	**16**
Public Order	72	32	20	44	**168**	70	25	**95**	**502**
CC Traffic	74	66	50	31	**221**	59	30	**89**	**747**
Administration of Justice	874	382	347	302	**1905**	1260	173	**1433**	**7585**
Impaired Driving	611	378	278	290	**1557**	836	284	**1120**	**5834**
Other CC	44	14	9	27	**94**	43	8	**51**	**293**
Criminal Harassment	4	3	3	2	**12**	15	4	**19**	**110**
Threats	180	84	62	71	**397**	319	55	**374**	**1867**
Total	**4001**	**1984**	**1526**	**1395**	**8906**	**4963**	**974**	**5937**	**38,414**

[1] The cases prosecuted by the Special Prosecutions Unit of the PPS are included in the region from which they originate.
[2] Homicides include all cases involving culpable death, e.g., murder, manslaughter, criminal negligence causing death and dangerous driving causing death, etc.

APPENDIX B: PROVINCIAL CASES PROSECUTED BY OFFICE OF OFFENCE APRIL 1, 1997 TO MARCH 31, 1998 [1]

	Motor Vehicle Act	Liquor Control Act	Other Prov. Statutes	Total	Prosecuted by PPS
Halifax Region					
Bedford	914	119	147	1,180	
Halifax	996	67	64	1,127	
Dartmouth	552	35	25	612	
	2,462	**221**	**236**	**2,918**	**0**
Central Region					
Amherst	302	181	81	564	392
New Glasgow	1,626	587	46	2,259	1,618
Truro	661	136	39	836	767
Antigonish	138	109	7	254	254
	2,727	**1,013**	**173**	**3,913**	**3,031**
Western Region					
Kentville	662	209	56	927	750
Bridgewater	753	137	53	943	759
Yarmouth	831	284	38	1,153	1,080
Digby	1,067	253	37	1,357	1,209
	3,313	**883**	**184**	**4,380**	**3,798**
Cape Breton Region					
Sydney	1,198	1,536	120	3,654	3,654
Port Hawkesbury	515	145	41	701	578
	2,513	**1,681**	**161**	**4,355**	**4,232**
Total	**11,105**	**3,798**	**754**	**15,567**	**11,061** (1)

[1] The PPS does not prosecute all provincial cases for all municipalities, but only for some cases for those municipalities with which it has entered into agreements.

APPENDIX C
APPEALS BRANCH STATISTICS

The following are statistics related to the operations of the Appeals Branch in 1997–98.

The branch participated in 51 appeals which were heard in full by the Court of Appeal.

Of this number:
- 12 were initiated by the Crown
- 39 were initiated by the offender
- 3 involved young offenders

Of 12 appeals initiated by the Crown:
- 7 dealt with appeals of sentence
- 3 dealt with appeals of acquittal
- 2 dealt with stays of proceedings

Of 39 appeals initiated by offenders:
- 19 dealt with conviction
- 9 dealt with sentence
- 8 dealt with conviction and sentence
- 1 dealt with an order transferring a young offender to adult court
- 1 dealt with a *certiorari* order (an order to quash a ruling)
- 1 dealt with the decision of a review board (mental disorder provisions)

The Appeals Branch also participated in 28 appeals that were abandoned, quashed or dismissed without a full hearing in the Court of Appeal.

Of these:
- 7 were initiated by the Crown
- 21 were initiated by the offender

The Appeals Branch participated in 127 Chambers Motions, which are applications heard by a single judge of the Court of Appeal. Chambers Motions include setting hearing dates, adjournments, bail pending appeals, extensions of time to appeal, directions in a particular appeal, and striking appeals from the Court's docket.

In the Supreme Court of Canada, the Appeals Branch participated in eight appeals—seven from the Nova Scotia Court of Appeal and one an intervention by the Attorney General of Nova Scotia in a criminal appeal from Manitoba.

APPENDIX D
PUBLIC PROSECUTIONS ACT

AN ACT TO PROVIDE FOR AN INDEPENDENT DIRECTOR OF PUBLIC PROSECUTIONS

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Public Prosecutions Act*.

2 The purpose of this Act is to ensure fair and equal treatment in the prosecution of offences by

(a) establishing the position of Director of Public Prosecutions;

(b) providing for a public prosecution service; and

(c) providing for the independence of the Director of Public Prosecutions and the public prosecution service.

3 In this Act, "prosecution" includes the decision whether to prosecute or not, the prosecution proceeding itself and matters arising therefrom, and appeals.

4 There shall be a Director of Public Prosecutions who

(a) is the head of the public prosecution service and is responsible for all prosecutions within the jurisdiction of the Attorney General conducted on behalf of the Crown;

(b) may conduct all prosecutions independently of the Attorney General except that the Director of Public Prosecutions shall comply with all instructions or guidelines issued by the Attorney General in writing and published pursuant to this Act;

(c) is, for the purpose of the *Criminal Code* (Canada) and the *Summary Proceedings Act*, the Attorney General's lawful deputy in respect of prosecutions;

(d) shall advise police officers in respect of prosecutions generally or in respect of a particular investigation that may lead to a prosecution when the police request such assistance;

(e) may issue general instructions or guidelines to a chief crown attorney, a regional crown attorney or a crown attorney in respect of all prosecutions or a class of prosecutions, and shall cause such instructions or guidelines to be published.

(f) may issue instructions or guidelines to a chief crown attorney, a regional crown attorney or a crown attorney in a particular prosecution.

5 (1) The Director of Public Prosecutions

(a) shall be a barrister of at least ten years standing at the Bar of Nova Scotia or of another province of Canada, and if of another province, shall, within one year of appointment, become a practising member of the Bar of Nova Scotia;

(b) shall be appointed by the Governor in Council after consultation with the Chief Justice of Nova Scotia, the Chief Justice of the Trial Division of the Supreme Court and the Executive of the Nova Scotia Barristers' Society;

(c) holds office during good behaviour;

(d) has the status of deputy head and the provisions of the *Civil Service Act* and regulations relating to a deputy or a deputy head apply to the Director of Public Prosecutions; and

(e) shall be paid the same salary as the Chief Judge of the provincial court.

(f) The Director of Public Prosecutions may be removed from office for cause by a resolution of the Assembly.

(g) Where, while the Assembly is not sitting, the Director of Public Prosecutions fails to be of good behaviour, or is unable to perform the duties of office, the Governor in Council may appoint a person to be Acting Director of Public Prosecutions who shall take over the duties of the Director of Public Prosecutions until fifteen sitting days after the Assembly is next sitting or until the Governor in Council sooner rescinds the appointment of the Acting Director of Public Prosecutions.

6 The Attorney General is the minister responsible for the prosecution service and is accountable to the Assembly for all prosecutions to which this Act applies and

(a) after consultation with the Director of Public Prosecutions, may issue general instructions or guidelines in respect of all prosecutions, or a class of prosecutions, to the prosecution service and shall cause all such instructions or guidelines to be in writing and to be published at the direction of the Director of Public Prosecutions as soon as practicable in the *Royal Gazette*;

(b) after consultation with the Director of Public Prosecutions, may issue instructions or guidelines in a particular prosecution, and shall cause such instructions or guidelines to be in writing and to be published at the direction of the Director of Public Prosecutions as soon as practicable in the *Royal Gazette* except where, in the opinion of the Director of Public Prosecutions, publication would not be in the best interests of the administration of justice, in which case the Director of Public Prosecutions, instead, shall publish as much information concerning the instructions or guidelines as the Director of Public Prosecutions considers appropriate in the next annual report of the Director of Public Prosecutions to the Assembly;

(c) may consult with the Director of Public Prosecutions and may provide advice to the Director of Public Prosecutions and, subject to clauses (a) and (b), the Director of Public Prosecutions is not bound by such advice;

(d) may consult with members of the Executive Council regarding general prosecution policy but not regarding a particular prosecution;

(e) may exercise statutory functions with respect to prosecutions, including consenting to a prosecution, preferring an indictment or authorizing a stay of proceedings, after consultation with the Director of Public Prosecutions.

7 The Director of Public Prosecutions may, from time to time, designate a barrister in the public service to be Deputy Director of Public Prosecutions who is responsible to the Director of Public Prosecutions and who may exercise all of the powers and authority of the Director of Public Prosecutions and, for that purpose, is a lawful deputy of the Attorney General.

8 There shall be crown attorneys to conduct prosecutions and the crown attorneys are responsible to the Director of Public Prosecutions and, where applicable, to a chief crown attorney or a regional crown attorney.

9 There may be a regional crown attorney to supervise crown attorneys within a geographic area determined by the Director of Public Prosecutions, and a regional crown attorney is responsible to the Director of Public Prosecutions.

10 There may be a chief crown attorney to supervise crown attorneys and, where applicable, regional crown attorneys, and a chief crown attorney is responsible to the Director of Public Prosecutions.

11 A chief crown attorney, a regional crown attorney and a crown attorney have all the powers, authorities and duties provided by the criminal law of Canada for prosecutors, for prosecuting officers or for counsel acting on behalf of the Attorney General.

12 All chief crown attorneys, all regional crown attorneys and all full-time crown attorneys shall be barristers appointed pursuant to the *Civil Service Act* upon the recommendation of the Director of Public Prosecutions after a competition.

13 The Director of Public Prosecutions shall report annually to the Assembly in respect of prosecutions.

14 (1) The Director of Public Prosecutions may appoint a barrister to take charge of and conduct a particular prosecution or to take charge of and conduct criminal business to the extent specified in the terms of the appointment.

(a) A barrister appointed pursuant to this Section shall be known and designated as a crown attorney and, when acting within the terms of the appointment, has all the powers and authority of a crown attorney.

(b) The Director of Public Prosecutions may, from time to time, vary the terms of appointment of a crown attorney pursuant to this Section or may, at any time, revoke the appointment.

15 Notwithstanding Section 12, all prosecuting officers and assistant prosecuting officers employed by the Province immediately before the coming into force of this Act are crown attorneys for the purpose of this Act.

16 Clause (c) of subsection (1) of Section 30 of Chapter 210 of the Revised Statutes, 1989, the *House of Assembly Act*, is amended by striking out the punctuation and words "prosecuting officer" in the second and third lines thereof.

17 Chapter 362 of the Revised Statutes, 1989, the *Prosecuting Officers Act*, is repealed.

18 This Act comes into force on and not before such day as the Governor in Council orders and declares by proclamation.

APPENDIX E
BUDGET RESOURCES

	Actual 1997/98 $(000's)	Estimate 1998/99 $(000's)
Head Office		
Salaries and Benefits	924.0	890.3
Operating Costs	226.2	546.3
Recoveries	-195.1	-250.0
Westray		
Salaries and Benefits	469.3	281.0
Operating Costs	479.3	271.7
Cape Breton Region		
Salaries and Benefits	745.9	900.4
Operating Costs	97.2	272.5
Central Region		
Salaries and Benefits	888.8	939.6
Operating Costs	135.2	340.3
Halifax Region		
Salaries and Benefits	2,499.8	3,113.5
Operating Costs	309.5	668.3
Western Region		
Salaries and Benefits	1,019.5	1,192.1
Operating Costs	168.1	258.3
Appeals Branch		
Salaries and Benefits	525.9	564.0
Operating Costs	13.6	33.4
Professional Services	793.1	387.3
Total		
Salaries and Benefits	7,073.2	7,880.9
Operating Costs	2,222.2	2,778.1
Recoveries	-195.1	-250.0